

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-25767 - APPLICANT/OWNER: BEHFA, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION:**      **APPROVAL**, subject to:

**Planning and Development**

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for Beer/Wine/Cooler On Sale use
2. Conformance to the conditions for Rezoning Z-0054-84 and Site Development Plan Review [Z-0054-84(2)], if approved.
3. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
4. Approval of this Special Use Permit does not constitute approval of a liquor license.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This request is for a Special Use Permit for a proposed Beer/Wine/Cooler On-Sale Establishment in an existing restaurant located at 2902 Lake East Drive, within the Lakes Town Center. A Special Use permit for a Restaurant Service Bar was approved at this location in 2005. Personal circumstances required closure of the restaurant. During that time the Special Use Permit expired.

The applicant's justification letter states customers of the restaurant have requested beer and wine to be served with the food. Located within a 2,914 square foot space, seating is available for approximately 65 customers. Hours of operation vary with the season, with limited hours and days of operation in the winter to a seven day a week operation in the summer. Ample on-site parking is adjacent to this building and throughout the commercial center parking lot.

The existing restaurant meets the Title 19 requirements for a Beer/Wine/Cooler On-Sale Establishment. Staff therefore recommends approval of the Special Use Permit.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
08/11/94	The Planning Commission approved a plot plan/ building elevation review [(Z-0054-84(11)]
09/24/98	The Planning Commission approved a request for a Special Use Permit (U-0105-98) on property located at 2910 lake east drive for the on-premise sale of beer and wine in conjunction with a proposed 1,500 square foot restaurant (Cafe Mermaid).
09/04/02	The City Council approved a request for a Special Use Permit (U-0090-02) to allow a Psychic Arts business on property located at 2914 Lake East Drive. The Planning Commission recommended approval.
09/07/05	The City Council approved a request for a Special Use Permit (SUP-7599) for a restaurant (The Lakes Captain's Cove) with service bar located at 2902 Lake East Drive, Suite F. Planning Commission recommended approval
10/05/05	The City Council approved request for a Special Use Permit (SUP-8327) for a proposed pet boarding at 2924 Lake East Drive. Planning Commission recommended approval
04/05/06	The City Council approved a request for a variance to allow a trash enclosure zero feet from a residential property line where the minimum setback is 50 feet at 2902-2934 Lake East Drive. The Planning Commission recommended approval.

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04/05/06	The City Council approved a request for a Review of Condition (ROC-11009) Number 3 of an approved Site Development Plan Review [Z-0054-84(2)] to remove the condition that the trash enclosure be located away from the residential area on 2.00 acres at 2902-2934 Lake East Drive. The Planning Commission recommended approval.
<b><i>Related Building Permits/Business Licenses</i></b>	
11/07/07 (Inactive status date)	Business license: L09-00223 (reclassified from L09-97406), for “Captains Cove” located at 2902 Lake East Drive, Suite #F. This license is placed inactive pending approval of this SUP
11/27/07	Business license reclassified from R09-01330 to: R09-01301, approved for the “Captains Cove Events” Restaurant, with seating for 45 or more, located at 2902 Lake East Drive, Suite F
<b><i>Pre-Application Meeting</i></b>	
11/09/2007	Discussed submittal requirements for a Special Use Permit for Beer and Wine Use.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required, nor was one held.	
<b><i>Field Check</i></b>	
12/13/07	Restaurant located in commercial center in the Lakes. In this center alcohol is also sold at the market, Lakes Lounge, and the King and I Restaurant.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	2.3

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Commercial Center	SC(Service Commercial)	C-1(Limited Commercial)
North	Residential	ML(Medium Low Residential)	R-PD 8 (Residential Planned Development – 8 DUA)
South	Residential	ML(Medium Low Residential)	R-PD8(Residential Planned Development – 8 DUA)
East	Commercial	SC(Service Commercial)	C-1(Limited Commercial)
West	Park	PR-OS (Parks and Open Space)	R-PD 3 (Residential Planned Development – 3 DUA)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	

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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>		X	
R-PD Residential Planned Development District	Y		Y
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

## DEVELOPMENT STANDARDS

- Parking and Traffic Standards

The request is to allow Beer/Wine/Cooler On Sale within a restaurant that is currently operating. The restaurant does not cause the commercial center to be out of compliance with current parking standards, the addition of Beer/Wine/Cooler On Sale will not increase the number of spaces that have already been approved.

This site is located within a larger commercial subdivision, which allows cross-access shared parking throughout the entire center. One handicap space is located directly in front of the entrance to the restaurant along with parking spaces adjacent to the building. No additional parking is required beyond that which is provided within the commercial center for the restaurant on the site.

## ANALYSIS

- General Plan

The subject parcel is located in the SC (Service Commercial) zone of the General Plan and within the Southwest Sector plan area. This district allows for low- to medium-intensity retail, office or other commercial uses that are intended to primarily serve residents of the immediate area. The current zoning, C-1 (Limited Commercial), complies with the General Plan and allows uses such as the one proposed contingent upon approval of a Special Use Permit.

- Zoning

Beer/Wine/Cooler On-Sale Establishment is permitted in a C-1 (Service Commercial) zone with approval of a Special Use Permit.

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- Use

The existing restaurant will sell beer/wine/coolers in conjunction with their food service. Shown on the site plan and explained in the justification letter, the restaurant will consist of 2,914 square feet and provide seating for approximately 65 customers. Additional outdoor seating is provided in the summer months. Currently, winter hours of operation for the restaurant are Wednesday through Sunday, 9:00 am to 6:00 pm. During the summer months the restaurant is open seven days a week and hours are expanded from 9:00 am to 10:00 p.m.

Title 19.04.010 establishes the criteria and minimum requirements for the approval of alcohol-related uses. The Code requires a Beer/Wine/Cooler On-Sale Establishment to be a minimum of 400 feet from any church, synagogue, school, childcare facility licensed for more than twelve children, or City Park as measured from property line to property line. In this case, no protected uses are known to be within the minimum separation distance requirement.

In accordance with Title 19.20.020, operational requirements for a Beer/Wine/Cooler On-Sale Establishment include: 1) An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers for consumption only in connection with a meal on the premises where the same is sold; 2) And is operated in connection with a restaurant in which 45 or more people may be served with meals at any one time at tables or stools.

- Minimum Distance Separation Requirements

Pursuant to Title 19.04, the following Standards apply to the subject proposal: Beer/Wine/Cooler On-Sale Establishment may not be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park. The restaurant use is located in a suite within a commercial subdivision. The proposed restaurant is greater than 400 feet from any of the protected uses. Therefore, it meets the minimum distance separation requirement.

## **Conditions**

Title 19.04.010 provides conditions for the approval of a Special Use Permit for a Beer/Wine/Cooler On-Sale Establishment. These conditions include:

1. A minimum separation distance of 400 feet as described above;
2. The methodology for calculation of that measurement;

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3. A different methodology for calculating separation distance when the use is on a large parcel (i.e. over 80 acres);
4. Direction to the Planning Commission for consideration if the distance requirement is requested to be waived;
5. Minimum distance requirements do not apply to non-restricted gaming license in connection with a hotel or a proposed establishment having more than 50,000 square feet of retail floor space.
6. Compliance with Chapter 6.50 of the Las Vegas Municipal Code.

The proposed development is in compliance with the relevant conditions as stated above.

## **FINDINGS**

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The project is compatible with the General Plan land use designation and is located within an existing commercial center. The proposed use can be conducted in a manner that is harmonious and compatible with the surrounding uses.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The proposed Beer/Wine/Cooler-On Sale use will be located in an operating restaurant within a small commercial center. There is not evidence of a physical constraint to the proposed use on the subject site.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The adjacent roadways are of adequate capacity: Lake East Drive and Lake Sahara Drive (80-foot wide Secondary Collectors) provide access to the overall commercial center. The roadway network has adequate capacity to serve the restaurant use.

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4. “Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”

The proposed Beer/Wine/Cooler On Sale use on this site will be subject to regular inspections by regulatory agencies for business licensing and will therefore not compromise the public health, safety and welfare, or the overall objectives of the General Plan.

5. The use meets all of the applicable conditions per Title 19.04.

The proposed Beer/Wine/Cooler-On Sale use in conjunction with an existing restaurant complies with the conditions per Title 19.04.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 5

**SENATE DISTRICT** 8

**NOTICES MAILED** 589

**APPROVALS** 4

**PROTESTS** 0